REMARKS

This communication responds to the Office Action mailed January 29, 2008. Claims 1-54 were originally filed. Claims 8-27 and 35-54 have been previously withdrawn in response to a restriction requirement without prejudice to or disclaimer of the subject matter contained therein. Therefore, claims 1-7 and 28-34 remain pending and unchanged from their prior versions.

CLAIMS 1-2 AND 7 ARE PATENTABLE OVER SANDERS

The Examiner rejected claims 1-2 and 7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0042036 by Sanders [hereinafter "Sanders"] in view of U.S. Patent Application No. 6,078,904 to Rebane [hereinafter "Rebane"]. Essentially, the Examiner contends that Sanders discloses all of the elements of the claims at issue except for buying on margin, for which the Examiner cites Rebane. The Examiner then contends "it would have been obvious to one of ordinary skill in the art ... to modify Sanders to add buying on margin with predictable results and a reasonable expectation of success in order to allow traders a wide rang e of possible actions." The Applicant respectfully disagrees with the Examiner's characterization of these references vis-à-vis the claims at issue.

Sanders fails to disclose ***using a purchase on margin to modify the riskiness characteristic*** of a portfolio of assets, rights or liabilities. None of the citations to Sanders provided in the office action include this teaching absent in Sanders. In fact, nowhere else in Sanders can this missing teaching be found. Sanders simply discloses a security that contains leverage in it in terms of how it pays out. It is in essence a security with an embedded option in it – you pay for the option and the underlying strike price upfront (*e.g.*, $100 in the example in Sanders), you then receive a contracted

for return if the underlying goes up (like a call option) and lose some or all of your premium payment and the strike price you already paid for if the security goes down. Sanders is wholly unrelated to the claimed invention, which includes using a purchase on margin to match a riskiness characteristic of a portfolio of assets, rights or liabilities selected by a user.

For example, the Examiner cites FIG 1, from "at least 'select items' through at least 'best price offer' in at least CybicBulls/Bears embodiment, which is reproduced below for ease of the reader:

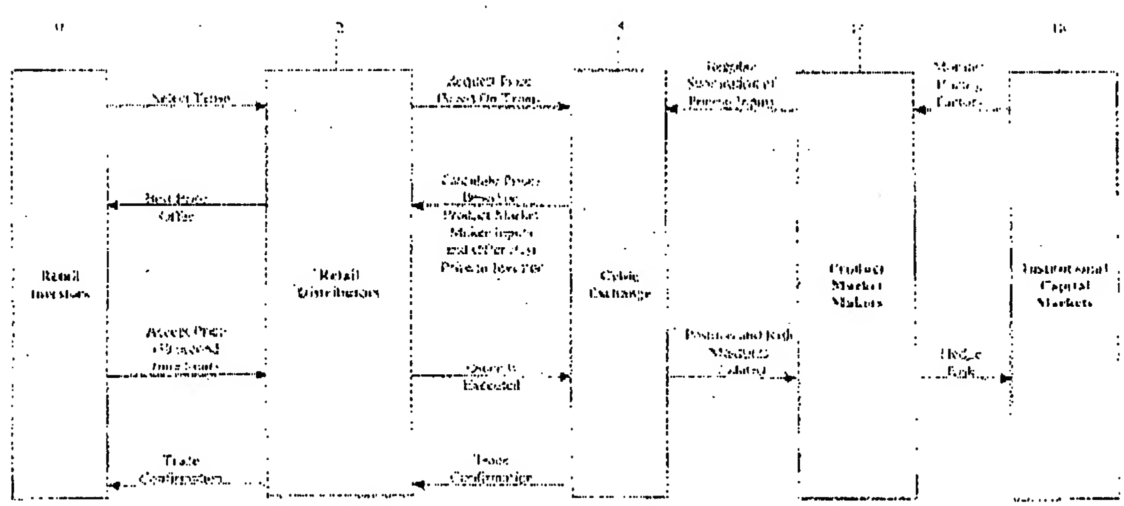

FIG. 1

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The Examiner further cites other portions of FIG 1 and paragraphs 53-55, which are reproduced below as well.

[0053] The CybieBull/Bear 24 product for an embodiment of the present invention allows the Retail Investor 10 to increase the potential gain or loss of an investment by a multiple of the Retail Investor's choosing. The Retail Investor 10 chooses an underlying equity or index, the number of investment units (e.g., $100 each), a maturity, and a leverage factor (Return Multiplier). The Retail Investor 10 is then quoted a Return Cap, which represents the maximum potential investor gain. For a CybieBull 24, at maturity the Retail Investor 10 is paid the initial investment compounded by the percent increase or decrease on the underlying equity or index (from the time of purchase) times the Return Multiplier. The Retail Investor 10 can lose no more than the initial investment, and may Early Redeem the CybieBull 24 at any time for an interim price competitively quoted by the Product Market Makers 16. CybieBears 24 work in the opposite direction of CybieBulls 24, leveraging positive returns when the market is declining and leveraging loses when the market is going up.

[0054] As an example of a CybieBull 24, assume that on Feb. 14, 2000, the Retail Investor 10 purchases a single unit ($100) of a six-month IBM CybieBull 24 and chooses a Return Multiplier of ten. The Return Cap is quoted at eighty percent, and IBM is selling for $120 per share at the time of purchase. If IBM closes at $126 (a five percent increase) on Aug. 14, 2000, the Retail Investor 10 receives a return of ten (Return Multiplier) times five percent (increase in underlying price) or a fifty percent return on the initial investment of $100, for a total of $150. If IBM closes at $144 (a twenty percent increase) on Aug. 14, 2000, the preliminary return calculation produces ten (Return Multiplier) times twenty percent (increase in underlying price) or a two hundred percent return on the initial investment. This is greater than the Return Cap of eighty percent, and therefore the Retail Investor 10 is paid the eighty percent Return Cap on the initial investment of $100, for a total of $180. If IBM closes at $120 on Aug. 14, 2000, the Retail Investor 10 receives the initial investment of $100.

> [0055] In the foregoing CybicBull 24 example, if IBM closes at $114 (a five percent decrease) on Aug. 14, 2000, the Retail Investor 10 loses ten (Return Multiplier) times 5 percent (decrease in underlying price) or fifty percent from the initial investment of $100, for a total return of $50. If IBM closes at $96 (a twenty percent decrease) on Aug. 14, 2000, the preliminary return calculation produces ten (Return Multiplier) times twenty percent (decrease in underlying price) or 200 percent. However, the Retail Investor 10 can never lose more than the initial so only $100 is lost. FIG. 5 is a table which shows an example of a comparison of benefits of CybicBulls/Bears 24 for an embodiment of the present invention to standard put and call options.

In all of the citations provided by the Examiner, the Applicant is unable to find the concept of ***determining an amount of a desired portfolio (not an individual security) that must be purchased on margin to match a user specified riskiness characteristic***, as recited in all of the independent claims. Sanders fails to disclose even doing so for an individual security, as Sanders does not disclose margin purchases that are used to modify the riskiness characteristic of an asset to match a user specified riskiness characteristic. Simply put, Sanders does not disclose margin purchases at all, about which the Examiner apparently agrees.

More specifically, claim 1 recites "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*", which cannot be found in Sanders. In contrast to the present invention, Sanders employs a method in which one can purchase units of an investment contract (*i.e.*, a single asset, right or liability, but not an entire portfolio of such assets, rights or liabilities) that has certain leverage, but can never lose more than his initial investment. See paragraph 55, lines 9-10 (highlighted above). If the investor can never lose more than his initial investment, the purchase is not being accomplished using margin. A margin purchase is a purchase based on a loan to the investor from the brokerage. By doing so, the investor can

purchase more stock than possible with his own funds. However, if the stock price drops, the investor is subject to a margin call, and must place additional funds in the account to repay the "loan." In this manner, the investor can lose more than his initial investment. Therefore, Sanders fails to teach "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic.*"

In fact, Sanders teaches away from adjusting the riskiness of an investment by modifying the amount purchased on margin by teaching a method in which one can never lose more than his initial investment. By providing a method in which one can never lose more than his initial investment, but gain leverage similar to leverage gained from margin investing, Sanders teaches that margin investing is less desirable (because in margin investing one can always lose more than the initial investment) and thus teaches away from doing so. Therefore, Sanders cannot be used in combination with another reference that teaches margin investing to render obvious the claims at issue.

Moreover, Rebane also fails to disclose "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic.*" The only portion of Rebane cited by the Examiner is column 10, lines 25-35, which is reproduced below (emphasis supplied).

> Nominate a stored RTF as current RTF for use by RDAA and RR/CAPM modules.
>
> 5.1.3 Short List Maker Module
>
> The short list maker module 311 provides for selection of a number of investments for inclusion in a short list of investments to be analyzed by the RDAA or RR/CAPM modules **301, 303**. In this disclosure, "investment assets" includes cash (own or borrowed) and other liquid assets that may be invested by an investor. "Investments" includes stocks, bonds, commodities, precious metals, and any other securities or financial instruments in which an investor may invest. The short list maker **311** provides the following

This citation from Rebane merely discusses cash that could be borrowed. There is simply no discussion of determining an amount that must be purchased on margin so that the riskiness characteristic is matched to a user preference. Because this teaching is missing from Sanders and Rebane, the combination of Sanders and Rebane fails to result in the claimed invention – even if Sanders and Rebane could be combined in the manner suggested by the Examiner, which the Applicant respectfully submits they cannot.

As mentioned above, Sanders fails to disclose this missing teaching, and in fact teaches away from any combination involving margin investing by showing how to obtain better results from avoiding margin investing. Consequently, Sanders and Rebane cannot be combined in the manner suggested by the Examiner.

The Applicant therefore respectfully requests reconsideration and withdrawal of the rejection of claims 1-2 and 7.

CLAIMS 3 AND 6

ARE PATENTABLE OVER SANDERS, REBANE AND HORNER ET AL.

The Examiner rejected claims 3 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of Rebane and further in view of U.S. Patent Application Publication No. 2003/0009409 by Horner et al. [hereinafter "Horner et al."]. The Examiner contends that the above mentioned combination of Sanders and Rebane fails to disclose interacting with a graphical user interface, but cites Horner et al. for this teaching. The Applicant agrees with the Examiner that Sanders and Rebane fails to disclose this teaching, but disagrees that the combination of Sanders and Rebane discloses the remaining elements of the claims at issue.

As discussed above, the combination of Sanders and Rebane fails to teach "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claim 1. An additional citation provided by the Examiner under this rejection is to FIG 5, which is reproduced below with the cited material highlighted:

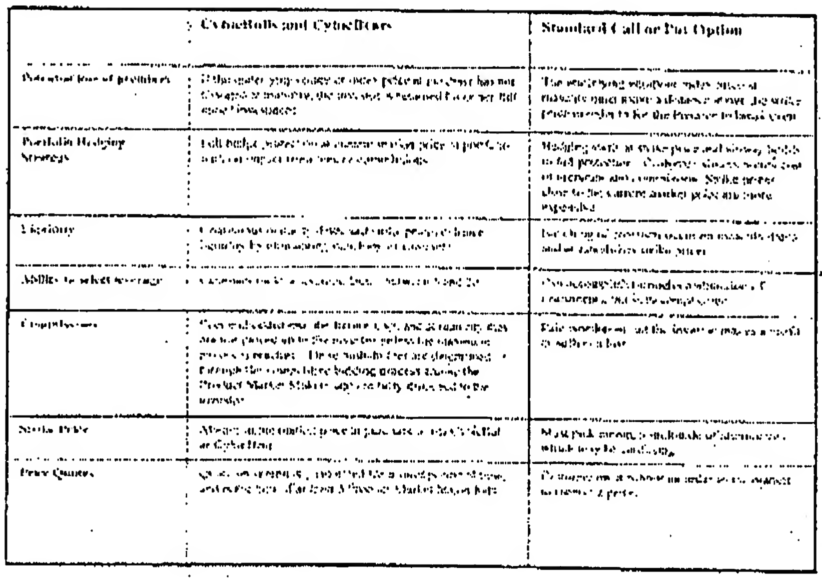

FIG. 5

The citation above does not disclose determining an amount of a portfolio that must be purchased on margin to match a user specified riskiness characteristic. No reference to a margin purchase and its relationship to the riskiness characteristic can be found in this citation or anywhere else in Sanders or Rebane.

Moreover, Horner et al. also fails to teach or suggest this teaching missing from the combination of Sanders and Rebane. The Examiner cites FIGs 4-7 of Horner et al., for disclosing interacting with a GUI.. However, none of these citations to Horner et al., and nowhere else in Horner et al., disclose determining an amount of a portfolio that must be purchased on margin to match a user specified riskiness characteristic. These citations are provided below for ease of the reader.

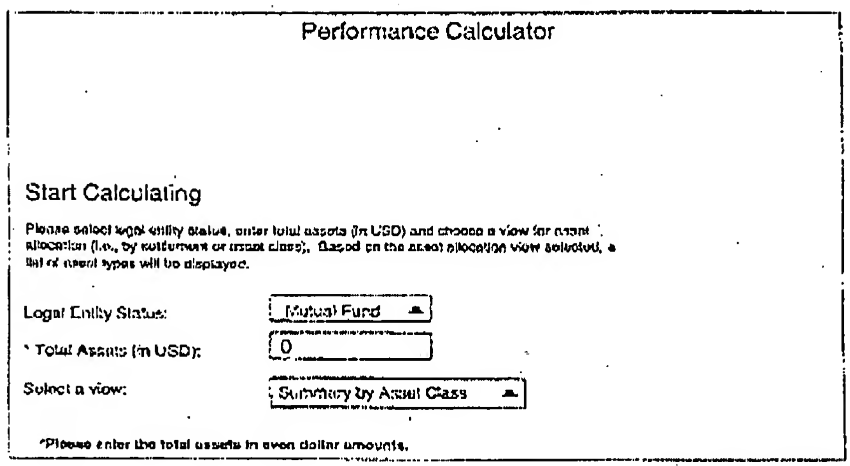

Fig. 4

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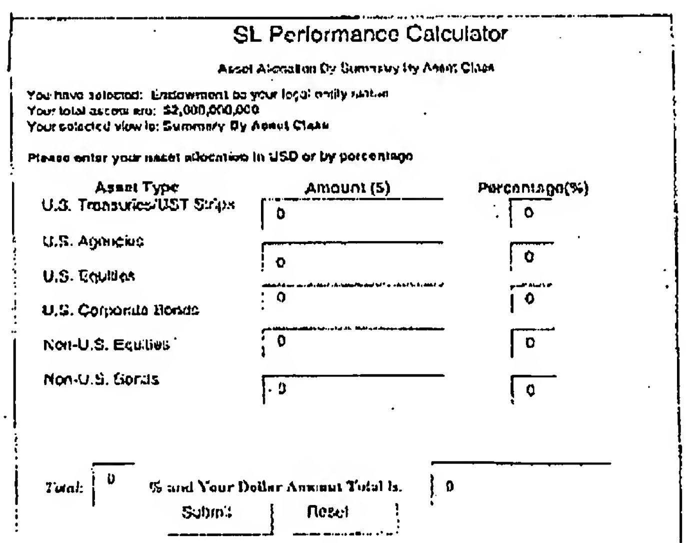

Fig. 5

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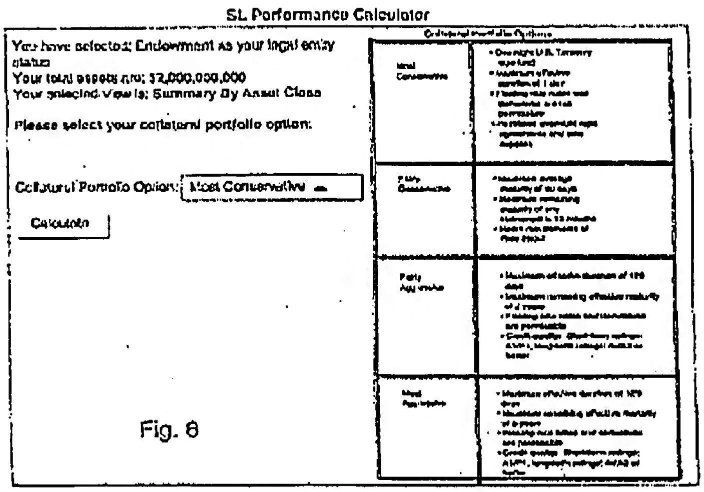
SL Performance Calculator
Please select your collateral portfolio option:
Most Conservative
Calculate

Fig. 6

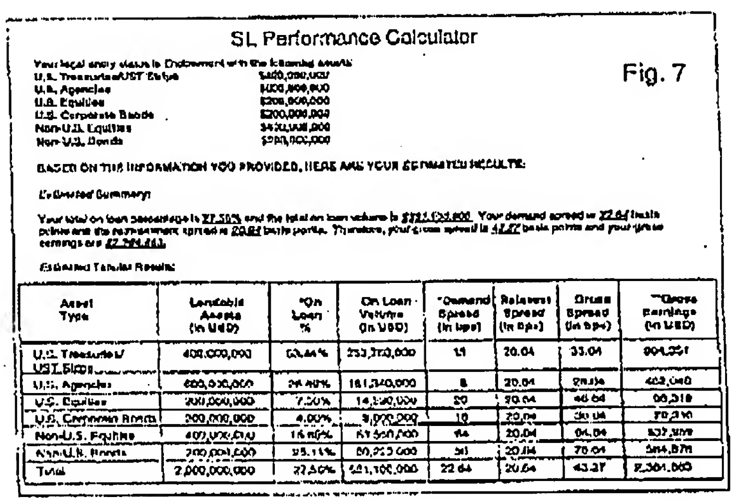
SL Performance Calculator
Asset Type
Lendable Assets (in USD)
On Loan Volume (in USD)
Total

Fig. 7

Because the combination of Sanders, Rebane and Horner et al. fails to teach or suggest all of the elements from claim 1, claim 1 is patentable over Sanders, Rebane and Horner et al., either taken alone or in any combination.

Furthermore, as mentioned above, Sanders and Rebane cannot be combined in the manner suggested because Sanders teaches away from purchasing on margin. Therefore, Sanders, Rebane and Horner et al. cannot be combined in the manner suggested by the Examiner for the same reasons.

As claims 3 and 6 depend from claim 1, claims 3 and 6 are also patentable over Sanders, Rebane and Horner et al. for at least the same reasons as claim 1. Therefore, the Applicant respectfully submits that the claims 3 and 6 are patentable over Sanders, Rebane and Horner et al., either taken alone or in any combination, and respectfully requests reconsideration and withdrawal of the rejection of these claims.

CLAIMS 28-30 AND 33-34

ARE PATENTABLE OVER SANDERS, REBANE AND HORNER ET AL.

The Examiner rejected claims 28-30 and 33-34 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of Rebane and further in view of Horner et al. The Examiner contends that Sanders the combination of Sanders and Rebane discussed above fails to disclose a computer including a display and a user interface, but cites Horner et al. for this teaching. The Applicant agrees with the Examiner that the combination of Sanders and Rebane fails to disclose this teaching, but disagrees that the combination of Sanders and Rebane discloses the remaining elements of the claims at issue.

As discussed above, the combination of Sanders and Rebane fails to teach "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claim 28. Moreover, as shown above Horner et al. also fails to teach or suggest this teaching missing from Sanders. Therefore, the combination of Sanders, Rebane and Horner et al. fails to teach or suggest all of the elements from claim 28; hence claim 28 and those that depend therefrom are patentable over the combination of Sanders, Rebane and Horner et al.

Also as discussed above, Sanders and Rebane (as well as Sanders, Rebane and Horner et al.) cannot be combined in the manner suggested by the Examiner. As such, the Applicant respectfully submits that the claims 28-30 and 33-34 are patentable over Sanders, Rebane and Horner et al., either taken alone or in any combination, and respectfully requests reconsideration and withdrawal of the rejection of these claims.

CLAIMS 4 AND 31

ARE PATENTABLE OVER SANDERS, REBANE, HORNER ET AL. AND NOLAN

The Examiner rejected claims 4 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of Rebane, and further in view of Horner et al. and further in view of U.S. Patent No. 5,754,873 to Nolan [hereinafter "Nolan"]. The Examiner contends that the combination of Sanders, Rebane and Horner et al. fails to disclose a slider bar, but cites Nolan for this teaching. The Applicant agrees with the Examiner that the combination of Sanders, Rebane and Horner et al. fails to disclose this teaching, but disagrees that the combination of Sanders, Rebane and Horner et al. discloses the remaining elements of the claims at issue.

As discussed above, the combination of Sanders, Rebane and Horner et al. fails to teach or suggest "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claims 1 and 28.

Moreover, Nolan also fails to teach or suggest this teaching missing from the combination of Sanders, Rebane and Horner et al. The Examiner cites column 9, lines 58-67 of Nolan to support his contention, which cite is reproduced below:

> The magnitude of the preferred size is entered as a number in entry field 40 using keyboard 34 in the example of FIG. 2. Alternatively, the user can input the number using a pointing device and menu. arrows to increment or decrement the magnitude, etc. In other embodiments, the scaling preference can be selected using a graphical control. such as a slider bar or dial, or a voice command. The inputted preferred size can be stored in RAM 16 (which can have a battery backup, for example. to provide non-volatile storage) or on a more permanent storage device, such as hard disk 28.

This citation to Nolan also fails to disclose that subject matter missing from Sanders, Rebane and Horner et al. Therefore, the combination of Sanders, Rebane, Horner et al. and Nolan fails to teach or suggest all of the elements from claims 1 and 28; hence claims 1 and 28 and those that depend therefrom are patentable over the Sanders, Rebane, Horner et al. and Nolan.

Moreover, as discussed above, Sanders and Rebane (as well as Sanders, Rebane and Horner et al.) cannot be combined in the manner suggested by the Examiner. Therefore, Sanders, Rebane, Horner et al. and Nolan cannot be combined in the manner suggested by the Examiner because Sanders teaches away from any combination involving margin trading. As such, the Applicant respectfully submits that the claims 4 and 31 are patentable over Sanders, Rebane, Horner et al. and

Nolan, either taken alone or in any combination, and respectfully requests reconsideration and withdrawal of the rejection of these claims.

CLAIMS 5 AND 32

ARE PATENTABLE OVER SANDERS, REBANE, HORNER ET AL.

AND MARKS ET AL.

The Examiner rejected claims 5 and 32 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of Rebane, and further in view of Horner et al. and further in view of U.S. Patent Application Publication No. 2001/0053944 to Marks et al. [hereinafter "Marks et al."]. The Examiner contends that the combination of Sanders, Rebane and Horner et al. fails to disclose an arrow on a dial, but cites Marks et al. for this teaching. The Applicant agrees with the Examiner that the combination of Sanders, Rebane and Horner et al. fails to disclose this teaching, but disagrees that the combination of Sanders, Rebane and Horner et al. discloses the remaining elements of the claims at issue.

As shown above, the combination of Sanders, Rebane and Horner et al. fails to teach or suggest "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claims 1 and 28.

Moreover, Marks et al. also fails to teach or suggest this teaching missing from the combination of Sanders, Rebane and Horner et al. To support his contention, the Examiner cites FIG 1 of Marks et al., which is reproduced below:

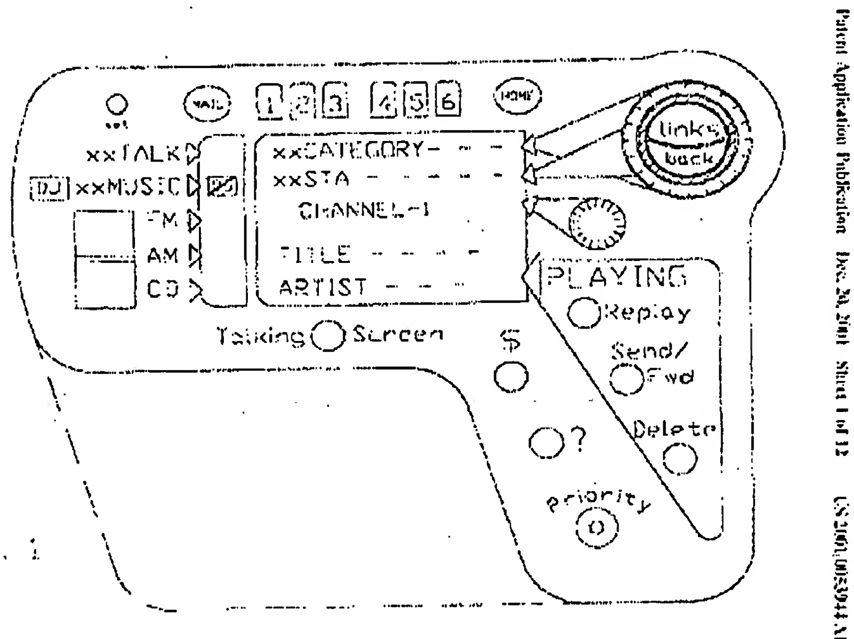

Fig. 1

This citation to Nolan also fails to disclose that subject matter missing from Sanders, Rebane and Horner et al. Therefore, the combination of Sanders, Rebane, Horner et al. and Marks et al. fails to teach or suggest all of the elements from claims 1 and 28; hence claims 1 and 28 and those that depend therefrom are patentable over Sanders, Rebane, Horner et al. and Marks et al.

Moreover, as discussed above, Sanders and Rebane (as well as Sanders, Rebane and Horner et al.) cannot be combined in the manner suggested by the Examiner. Therefore, Sanders, Rebane, Horner et al. and Marks et al. cannot be combined in the manner suggested by the Examiner because Sanders teaches away from any combination involving margin trading. As such, the Applicant respectfully submits that the claims 5 and 32 are patentable over Sanders, Rebane, Horner et al. and Marks et al., either taken alone or in any combination, and respectfully requests reconsideration and withdrawal of the rejection of these claims.

CONCLUSION

Reconsideration and withdrawal of all of the rejections are requested in view of the previous remarks. The Applicants respectfully submit this Application is in condition for allowance and request issuance of a Notice of Allowance.

If additional amounts are due for any reason it is respectfully requested that the PTO charge any deficiency or credit any overpayment to the deposit account of MICHAEL P FORTKORT PC, Deposit Account No. 50-3776.

In the event the prosecution of this application can be efficiently advanced by a phone discussion, it is requested that the undersigned attorney be called at (703) 435-9390.

Respectfully submitted,

By: Date: February 25, 2008

Michael P. Fortkort Reg. No. 35,141

MICHAEL P FORTKORT PC
The International Law Center
13164 Lazy Glen Lane
Oak Hill, Virginia 20171

Please direct telephone calls to:
Michael P. Fortkort
703-435-9390 (direct)
703-435-8857 (facsimile)